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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA-SAN JOSE DIVISION  
10

11 JASBIR GILL, MAHMOUD KEDKAD,

12 Plaintiffs,  
13

14 vs.

15 KNOWLEDGESTORM, INC. a corporation,  
DOES 1 THROUGH 50,

16 Defendants.  
17

Case No. C 07-04112PVT

EVIDENCE SUBMITTED BY  
PLAINTIFF KEDKAD IN  
OPPOSITION TO DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT OR IN THE  
ALTERNATIVE PARTIAL  
SUMMARY JUDGMENT

DATE: June 3, 2008  
TIME: 10:00 a.m.  
COURTROOM: 5

18 Plaintiff submits the following evidence in opposition to defendant's Motion for  
19 Summary Judgment or in the Alternative, Partial Summary Judgment:

20 DECLARATION OF BRIAN S. KREGER

21 EXHIBIT A: Excerpts of the deposition of Jasbir Gill

22 EXHIBIT B: Excerpts of the deposition of Mahmoud Kedkad

23 EXHIBIT C: Excerpts of the deposition of Joe Niederberger.  
24

25 Dated: May 20, 2008

LAMBERTO & KREGER

26  
27 By: /s/ Brian S. Kreger  
Brian S. Kreger, Attorney for plaintiff  
28

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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA-SAN JOSE DIVISION

10 JASBIR GILL, MAHMOUD KEDKAD,

Case No. C 07-04112PVT

11 Plaintiffs,

12 vs.

13 KNOWLEDGESTORM, INC. a corporation,  
14 DOES 1 THROUGH 50,

15 Defendants.

DECLARATION OF BRIAN S.  
KREGER IN OPPOSITION TO  
MOTION FOR SUMMARY  
JUDGMENT MAHMOUD KEDKAD

DATE: June 3, 2008  
TIME: 10:00 a.m.  
COURTROOM: 5

16 I, Brian S. Kreger, declare:

- 17
- 18
- 19
- 20 1. I am an attorney at law licensed to practice in the State of California and the
- 21 United States District Court, Northern District of California.
- 22 2. I am the attorney of record for plaintiffs herein.
- 23 3. I have person knowledge of the matters set forth herein and if called as
- 24 witness could competently testify thereto.
- 25 4. Attached hereto and marked as exhibit "A" are true and correct copies of
- 26 excerpts of the deposition of Jasbir Gill.
- 27 4. Attached hereto and marked as exhibit "B" are true and correct copies of
- 28

1 excerpts of the deposition of Mahmoud Kedkad.

2 4. Attached hereto and marked as exhibit "C" are true and correct copies of  
3 excerpts of the deposition of Joe Niederberger.

4  
5 I declare under penalty of perjury under the laws of the State of California  
6 and the United States of America that the foregoing is true and correct.

7 Executed this 20<sup>th</sup> day of May, 2008 in San Jose, California.

8  
9  
10 /s/ Brian S. Kreger  
11 Brian S. Kreger, Attorney for plaintiff  
12  
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**CERTIFIED  
COPY**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

3 --0--

4  
5 JASBIR GILL, MAHMOUD KEDKAD, )  
6 Plaintiffs, )  
7 vs. ) No. C 07-04112 PVT  
8 KNOWLEDGESTORM, INC., a )  
9 Corporation, DOES 1 through 50, )  
10 Defendants. )  
11 -----  
12  
13

14 DEPOSITION OF JASBIR KAUR GILL

15  
16  
17 DATE: Monday, January 14, 2008

18  
19 TIME: 10:07 a.m.

20  
21 LOCATION: Bell & Myers  
22 2055 Junction Avenue, Suite 200  
23 San Jose, CA 95131

24 REPORTED BY: Anna S. Allen  
25 Certified Shorthand Reporter  
License Number 9954

**EXHIBIT A**

**MERRILL LEGAL SOLUTIONS**

20750 Ventura Blvd, Suite 205

818.593.2300 Tel

1 with Katie or Lisa your belief that there was a  
2 systematic harassment by Joe Brown of you?

3 A. I think I said, yes, I did discuss the facts  
4 that Joe is not cooperating, Joe is not answering my  
5 calls, Joe does not want to help me out. So I think  
6 that when there's a pattern that's being established and  
7 you're discussing it with your colleagues, that does  
8 smell of some sort of -- it does smell of harassment.

9 Q. Do you believe that Joe was helping others to a  
10 greater extent than you?

11 A. I did not hear anybody else complain.

12 Q. Okay. My question is, do you believe that Joe  
13 Brown was helping others more favorably than he was  
14 helping you?

15 A. Yes, I do believe so.

16 Q. Which individuals do you believe he was helping  
17 to a greater extent than he was helping you?

18 A. Katie Kimball, Lisa McGuire, Joe Niederberger,  
19 Joe Kaniewski, Tracy Mikolajewski, who were all getting  
20 his help.

21 Q. Anyone else?

22 A. Those are the only people in the office.

23 Q. Well, what point in time? I thought there was  
24 Mike Kedkad.

25 A. Mike Kedkad was almost in the same boat I was.

1 Q. How do you know that?

2 A. Because we discussed.

3 Q. So in terms of individuals that you believed  
4 Joe Brown was not being as responsive or helpful, the  
5 two individuals that you identified so far is yourself  
6 and Mike Kedkad. Anybody else?

7 A. No, nobody else.

8 Q. So he would have been more responsive and  
9 helpful to someone like Kevin Cummings as well?

10 A. Absolutely.

11 Q. But you did not discuss with Katie or Lisa any  
12 of the racial slurs that you say Joe Brown made; is that  
13 right?

14 A. No, I did not.

15 Q. Did you discuss with anyone --

16 A. Yes.

17 Q. -- excuse me -- anyone at the South San  
18 Francisco office these racial slurs that Joe Brown made?

19 A. Anyone at the South San Francisco office?

20 Q. Yes.

21 A. Yes.

22 Q. Who?

23 A. Mike Kedkad.

24 Q. Anyone else?

25 A. No.

1 A. Yes.

2 Q. Was that the reason why you were printing it  
3 up?

4 A. Yes. So this print -- so at that time, you had  
5 asked me why I had made my resume. So this was to leave  
6 a copy of my resume at my lawyer.

7 Q. But this was something that you were doing at  
8 work; is that right?

9 A. I was on my way out from work. I had done my  
10 full day's work. I was on my way out and I'm printing a  
11 copy. This is work-related because my H-1B is sponsored  
12 by my work. So my understanding is this is work  
13 related. And so I'm using not company time but company  
14 resource to print a resume, yes.

15 Q. Okay. And this was at a period of time not too  
16 far after you had had conversations with Joe and Jason  
17 where they were trying to understand whether or not you  
18 were going to be staying with KnowledgeStorm; is that  
19 correct?

20 A. Probably, yes.

21 Q. Are you saying that Jason Hoback never told you  
22 that it was a violation of company policy to use company  
23 time and equipment to print out your resume?

24 A. Rephrase that question.

25 Q. Sure. Are you saying that Jason Hoback never

1 told you that it was a violation of company policy to  
2 use company time and equipment to print out your resume?

3 A. I don't think I still understand your question.  
4 Jason never told me that? Where does that come in this  
5 context?

6 Q. My question is: Are you saying that Jason  
7 Hoback never told you that it was company policy to --  
8 that it was a violation of company policy to use company  
9 time and equipment to print out your resume?

10 A. No.

11 Q. So he didn't tell you, at least according to  
12 what you're stating here, the reason why you were being  
13 terminated?

14 A. Other than the fact that I had violated company  
15 policy.

16 Q. He didn't say what policy you had violated?

17 A. No.

18 Q. Did he ever tell you the company's trust had  
19 been broken due to your behavior?

20 A. No.

21 Q. But he did tell you that the company was  
22 terminating your employment effective that day; is that  
23 correct?

24 A. I think that day was April 12th. He said  
25 April 13th.



1 Q. So the following day?

2 A. Yes.

3 Q. Did you have any questions of him at that time?

4 A. I was not given a chance to even ask a  
5 question.

6 Q. And nothing concerning your resume ever  
7 occurred or transpired during that conversation; is that  
8 correct?

9 A. No.

10 (Defendants' Exhibit 15, three-page document,  
11 marked for identification.)

12 BY MR. MOKOTOFF: (Q) Exhibit 15 consists of  
13 three pages. My first question simply is: Have you  
14 ever seen these documents before today?

15 A. This particular one?

16 Q. Yeah, these three pages.

17 A. Yes.

18 Q. What are, to your understanding, these  
19 documents reflecting?

20 A. My understanding -- I'm not very back-end  
21 computer literate but my understanding is, this is  
22 probably a screen shot of the queue up of me trying to  
23 print something.

24 Q. And it shows, actually, three separate  
25 occasions where you were trying to print something; is

1           A.    I have every reason to disbelieve that. My  
2   belief is that I was terminated based on my race. I was  
3   terminated because I had complained about racial  
4   discrimination, of harassment. I think that was the  
5   main reason why I was terminated.

6           Q.    Do you know of anyone else who printed out his  
7   or her resume while on company time who the company  
8   understood was printing out his or her resume and was  
9   not terminated?

10          A.    I think I recollect Lisa McGuire printing out  
11   her job offer letter from another company, which my  
12   understanding is, it even fell into the management's  
13   hand but yet, I think she was required -- she was  
14   requested to stay on.

15          Q.    Okay. Do you have any proof of that?

16          A.    Her own word.

17          Q.    Anyone else?

18          A.    Not that I know of.

19          Q.    When do you contend was the first time Joe  
20   Brown made statements about your national origin or race  
21   that you found offensive?

22          A.    To the best of my recollection, I think it was  
23   the first week of January when I had asked him to come  
24   and take a look at an email that I was writing to a  
25   client, to see if he needed to add something or if he

1 felt that was the right way of describing some of the  
2 programs that we offer.

3 And he came, and he looked at it, and he said,  
4 "Well, that's what they teach you in India? You need to  
5 learn the right way, which is the white man's way," and  
6 he just shrugged his shoulders and left.

7 Q. Do you recall the client to whom you were  
8 writing this email?

9 A. Unfortunately, I do not.

10 Q. But he was in the office in San Francisco?

11 A. Yes.

12 Q. And you were at your cubicle?

13 A. Yes.

14 Q. And did you ask Joe Brown to come over?

15 A. Yes. I went over to his office and his office  
16 door was opened. He had just walked in. And I said --  
17 it was very early in the morning. I said: Do you have  
18 a minute to come and look over -- I've typed up  
19 something I can show you, because I was fairly new in  
20 describing some of the programs.

21 And he came over and he looked at it and he  
22 just said: Is that what they teach you in India? And  
23 he said: You need to learn the right way, which is the  
24 white man's way. And he left. And I didn't know what  
25 to make of it.

1 Q. So that was in the early morning?

2 A. Yes.

3 Q. Are you aware of anyone else that would have  
4 heard that comment?

5 A. I am not aware of anybody else.

6 Q. Was there anyone else at that time in the  
7 morning that was at the office?

8 A. Could be. I'm not sure. I don't know.

9 Q. When you say early in the morning, would it  
10 have been before -- it's hard to say what working hours  
11 are -- before 9 o'clock in the morning?

12 A. Yes, it was probably around 8:30-ish, I think.

13 Q. And did you have any response to him at all?

14 A. Did I respond?

15 Q. To Joe Brown after he made that comment.

16 A. He just left. He just walked away from it. He  
17 said what he said and he walked away from my cube.

18 Q. Did you let anyone know about that statement?

19 A. Jason Hoback.

20 Q. When did you let him know?

21 A. It was, I think, the week of March -- I'm  
22 sorry -- the week of January, the last week, I think, on  
23 January 31st. Jason Hoback had come to the office, and  
24 I asked him if I could talk to him. I told him -- I  
25 said: You know, I just want to let you know, I'm

1 shocked that Joe Brown said something like that.

2 And so that's when I let him know that.

3 Q. So Jason Hoback was in the office around, you  
4 said, January 30th or 31st?

5 A. I think it was the 30th or 31st, one of those  
6 dates, yes.

7 Q. And so this would have been something that you  
8 would have told Jason face to face?

9 A. Yes.

10 Q. Was anyone else there when you told Jason?

11 A. It was in his office and we closed the door.

12 Q. So in one of the two closed door offices?

13 A. Yes.

14 Q. Why didn't you tell Jason Hoback about that  
15 comment before the 31st?

16 A. I think I wanted to but I found out he was  
17 going to be coming to the San Francisco office, so I  
18 figured I'll just wait until he comes and I'll tell him  
19 in person.

20 Q. In other words, there wasn't a need to tell him  
21 before the 31st?

22 A. I don't think I would say there wasn't a need.  
23 I think it was a comfort level. I felt I'd be more  
24 comfortable telling him something like this in person  
25 rather than over the phone.

1 giving you some inbound leads.

2 And so that's what Jason Hoback said.

3 Q. Do you know others that were getting inbound --  
4 what do you call them?

5 A. Inbound leads.

6 Q. Inbound leads?

7 A. Yes.

8 Q. Who?

9 A. Joe Niederberger was getting inbound leads, I  
10 know Lisa McGuire was getting those inbound leads, I  
11 know Rick Neigher was getting those inbound leads, I  
12 know Katie Kimball had strategic accounts that she was  
13 working on. I never heard any one of them make any cold  
14 calls other than myself.

15 Q. Okay. And did you ever get any inbound leads?

16 A. None.

17 Q. What was the next statement that Joe Brown made  
18 to you based on your race or national origin that you  
19 found offensive?

20 A. That concerned me? I was told of the fact that  
21 while I was in India, he had asked a colleague when I  
22 was coming back, and that maybe I won't come back;  
23 anyways, he didn't like Indians because they were taking  
24 all the jobs in the bay area so it's good, maybe I'll  
25 stay out back there.

1 Q. Who told you about that?

2 A. He made that comment to Mike Kedkad.

3 Q. And when did Mike tell you about this comment?

4 A. A few days after I came back.

5 Q. Where were you?

6 A. As far as I can recollect, we were in my  
7 office. We were in our office.

8 Q. Again, just so I understand, the cubicle?

9 A. It is a cubicle.

10 Q. Was anyone else there when Mike told you this?

11 A. Not that I know of. There could have been  
12 other people around. I don't know if anybody heard him  
13 tell me that.

14 Q. I know that you gave me fairly specific  
15 information that Mike told you, but I'm trying to get  
16 more specific. Do you recall everything that Mike told  
17 you about the comment that Joe Brown allegedly made  
18 while you were in India?

19 A. My understanding is that he asked Mike if he  
20 had heard back from me, if he knew where I was.

21 And Mike said: Well, I think she must be busy  
22 with her family, that she had to go see a few clients as  
23 well.

24 I think in respect to that, Joe Brown made that  
25 comment, that maybe I won't come back, there's too many

1 Indians and he hated them.

2 Q. Did you ask Mike if he said anything in  
3 response?

4 A. I asked Mike: Did you say anything?

5 He said: What could I say? I was shocked. I  
6 didn't know what to say at that point.

7 Q. I'm sorry. Was this in the morning or in the  
8 afternoon?

9 A. That I don't know, because I was not present at  
10 that time.

11 Q. I'm sorry. When Mike told you this comment.

12 A. I don't recollect the time.

13 Q. Okay. But you do recollect that it was in your  
14 cubicle?

15 A. Yes.

16 Q. That Mike came to your cubicle?

17 A. Either I went to his cubicle or he came to my  
18 cubicle. It was of the two.

19 Q. And you don't recollect or you do recollect  
20 that no one else was there when this comment was made?

21 A. I said that I do not know if there were other  
22 people around.

23 Q. Okay.

24 A. There could have been other people around. I  
25 don't know if anybody heard him say that to me.



1 Q. Did Mike tell you whether anyone else was  
2 around Mike when Joe made that comment?

3 A. I don't think I even asked Mike that question.

4 Q. Do you know whether someone else was around?

5 A. I don't know.

6 Q. Did you report this comment to anyone that Mike  
7 Kedkad had told you?

8 A. Yes, that was reported to Jason Hoback.

9 Q. When did you make that report to Jason Hoback?

10 A. It was some time the last week of March when I  
11 had a phone conversation with Jason.

12 Q. So this would have been approximately -- well,  
13 let me ask you this: Was Jason physically present at  
14 the time?

15 A. No. This was a phone conversation and I think  
16 you even have it as an exhibit.

17 Q. It was the email where it said, "Please call me  
18 privately"?

19 A. Yes.

20 Q. And were you the only person on that telephone  
21 with --

22 A. Yes.

23 Q. And I'm sorry. You said you got back from  
24 India approximately when?

25 A. Fifth of March.

1 Q. Why did you wait until the last week in March  
2 to call Jason about this comment?

3 A. I found out about two weeks after I came back.  
4 And then that was the next time I was going to be  
5 talking to Jason Hoback. I had been -- we had been  
6 playing phone tags. He would call me, I would call him.  
7 And then that just happened to be the date I was talking  
8 to him.

9 Q. And if I recall about that conversation, there  
10 were other topics you guys were discussing?

11 A. Yes.

12 Q. So when Mike came to you or you were at Mike's  
13 cubicle, one or the other, that was a couple of weeks  
14 after you returned from India?

15 A. Yes.

16 Q. Do you recall what date Mike Kedkad came to  
17 you?

18 A. I don't recall that date exactly, no. I don't  
19 recall that date.

20 Q. What was the next statement, if there was one,  
21 that Joe Brown made to you about you concerning your  
22 national origin or race that you found to be offensive?

23 A. Somewhere around the last week of March, I  
24 recollect Joe Brown being in the office. And we were  
25 talking of my account Infosys. And we start -- we

1 started discussing the economy and his question came up  
2 as to what my thoughts on the war in Iraq were.

3 And my answer to him was that this is not a  
4 time and place for us to discuss my idea or my views on  
5 the war in Iraq.

6 And Joe Brown's comment was: Oh, well, I don't  
7 care, I hate Muslims, I think all Muslims are terrorists  
8 anyway.

9 Q. And are you Muslim?

10 A. I am not.

11 Q. What is your religion?

12 A. Sikh.

13 Q. But you found -- I'm sorry. My question was,  
14 what was the next statement that Joe Brown made about  
15 your race or national origin?

16 A. Even if I am not a Muslim, that is a very  
17 offensive statement.

18 Q. So you found it offensive, but it wasn't about  
19 your race or --

20 A. Maybe Joe Brown thinks I'm Muslim. I don't  
21 know.

22 Q. You don't know whether he thinks that.

23 A. I don't know. Maybe he thinks that and that's  
24 why he made that comment. I don't know. But you asked  
25 me what was the next offensive comment. That was the

1 offensive comment, that even if I am not Muslim, I find  
2 that very offensive.

3 Q. My question was, what was the next comment that  
4 Joe Brown made about your race or your national origin  
5 that you found offensive? And I think you just  
6 identified the next statement that you found offensive  
7 that came from Joe Brown.

8 Was there any other statement made by Joe Brown  
9 about your race or your national origin that you found  
10 offensive?

11 A. I know there was another occasion -- I don't  
12 remember the exact date and timing of this -- Joe Brown  
13 made a comment in which he said: Non-whites have a very  
14 difficult time in sales and that they should just pack  
15 up their bags and leave.

16 Q. And you're saying you don't recall when that  
17 was?

18 A. I know that this was made in one of his visits  
19 which was early on, I think, some time in the second  
20 week of January when he was around.

21 Q. So non-whites have a difficult time in sales  
22 and that they should just pack up and leave. This was  
23 something -- was it a comment he made to you?

24 A. It was a comment that I think we were talking  
25 of certain sales aspects of how Indians and what kind of

1 A. No.

2 Q. And all of the comments that we have just  
3 identified, other than to Jason Hoback, did you let  
4 anyone else at KnowledgeStorm know about these comments?

5 A. Mike Kedkad would be one and that's it.

6 MR. KREGER: Can we take a quick break?

7 MR. MOKOTOFF: Sure.

8 (Break taken.)

9 (Defendants' Exhibit 16, 5-11-07 Complaint of  
10 Discrimination, marked for identification.)

11 MR. MOKOTOFF: Back on the record after a  
12 break.

13 BY MR. MOKOTOFF: (Q) Ms. Gill, I'm going to  
14 refer your attention to what's been marked as Exhibit 16  
15 to your deposition, and I believe it's your charge of  
16 discrimination.

17 Is that your signature at the bottom of Exhibit  
18 16?

19 A. Yes.

20 Q. And it's dated May 4th, 2007; is that correct?

21 A. Correct.

22 Q. And did you file this with Mike Kedkad?

23 A. I'm sorry. Say that again?

24 Q. Let me back up because I think that's assuming  
25 facts we haven't gotten to yet.

1 down my questions to you. It says:

2 "Joe Brown stated to another employee regarding  
3 Mr. Kedkad, 'What do you think of the camel  
4 jockey working for KnowledgeStorm? Why don't  
5 you take the SWAT out on him so he will start  
6 making some calls.'"

7 My question to you is: Had you heard of that  
8 comment while you were employed by KnowledgeStorm?

9 A. Had I heard of that while I was employed? I  
10 think I was -- no. That comment I had not heard while I  
11 was working.

12 Q. In paragraph 7, there is a statement that  
13 focuses on Mr. Kedkad made by Joe Brown, essentially, a  
14 statement to the effect of: Why are you dressed like  
15 this? This is not the middle east.

16 Were you aware of that statement while you were  
17 employed by KnowledgeStorm?

18 A. Yes, I was.

19 Q. How did you become aware of that statement?

20 A. I was, in fact, right there when that comment  
21 was made.

22 Q. But that's not the comment you and I had  
23 discussed previously; is that correct?

24 A. No.

25 Q. And you said you were right there when that

1 comment was made. Again, let's sort of paint the  
2 context. Where were you when this comment was made?

3 A. I was -- if I fairly very correctly remember, I  
4 was walking towards Joe Brown's office. And I saw Mike  
5 Kedkad come in to work. And he said good morning to Joe  
6 Brown. And I stood there, just because I was saying  
7 good morning as well.

8 And the first comment Joe Brown made is: Why  
9 are you dressed like that? It's not the middle east.

10 Q. Do you recall what Mike was wearing?

11 A. He was wearing normal pant and shirt.

12 Q. And was anyone else there at the time?

13 A. I am not aware.

14 Q. Do you recall approximately when this comment  
15 was made?

16 A. Some time in the morning.

17 Q. And was it January, February, March, April,  
18 December?

19 A. Best of my recollection, it was probably  
20 January.

21 Q. Okay. And was this at or around the same time  
22 that he made the comment to you about the white man's  
23 way is the right way?

24 A. To the best of my recollection, I would say  
25 somewhat around the same time.

1 and leave.

2 Q. In this Complaint, there's a statement that  
3 says that Jason Hoback responded: Joe Brown is  
4 inexperienced in management and might have said things  
5 that he did not mean.

6 Does that refresh your recollection as to what  
7 Jason Hoback would have said?

8 A. I think if you read that correctly, that is  
9 probably a response that he gave to Mike Kedkad.

10 Q. So that was my question. Was that a response  
11 that he give to you or was that a response that he gave  
12 to someone else?

13 A. To me, his response was that I should -- I'm  
14 overreacting, I should just hang in there. That was his  
15 response to me, that I was overreacting.

16 Q. And so your communication with Jason Hoback was  
17 separate from Mr. Kedkad's report to Jason Hoback?

18 A. Yes.

19 Q. Were you aware at that time, that Mr. Kedkad  
20 was making a report to Jason Hoback?

21 A. I was vaguely aware. He had mentioned that,  
22 you know, I'm really distressed about how Joe Brown is  
23 treating me, and I think I should be talking to Jason  
24 Hoback about it.

25 Q. Okay. There is a statement in paragraph 11 of



1 the Complaint that talks about not being invited to a  
2 business dinner. I want to make sure that paragraph  
3 does or does not relate to any allegations that you're  
4 bringing.

5 A. It does not relate to me.

6 Q. Paragraph 12 of the Complaint, there is a  
7 statement that's attributed to Joe Brown commenting to  
8 Mr. Kedkad that he hated Indians and they were taking  
9 all the jobs. Is that the same comment that you and I  
10 spoke about earlier today?

11 A. Yes.

12 Q. Okay. In paragraph 13 of the Complaint, there  
13 is a statement made that Joe Brown called you on --  
14 well, it says:

15 "Joe Brown called plaintiff Gill and shouted at  
16 her in a very threatening voice, asking her if  
17 she was leaving or staying. He said that she'd  
18 better tell him or he would make it very  
19 difficult for her to do her job."

20 I don't believe that's something that we have  
21 talked about yet, but if we have, I apologize. Can you  
22 tell me about the context of that conversation that  
23 occurred the week of March 19th, 2007.

24 A. Yes. I unexpectedly receive a call. It's  
25 about, to the best of my recollection, towards the end

1 of the afternoon. And I get a call from Joe Brown in a  
2 very threatening, very demanding, demeaning,  
3 intimidating voice.

4 He says: I just want to ask -- I want to find  
5 out from you, are you leaving or are you staying?

6 So my response to him was: Joe, what kind of  
7 question is that?

8 He said to me: If you don't tell me, I will  
9 make it very difficult for you to do your job here.

10 And my response to him again was: I don't know  
11 what kind of question that is.

12 Q. Anything more to that conversation?

13 A. That's it.

14 Q. Do you know why he was calling you and  
15 questioning whether you were leaving or staying?

16 A. I do not know.

17 Q. You made the statement that he was calling you  
18 in a very threatening voice. Was he screaming or was  
19 he -- how would you describe -- you used the word "very  
20 threatening."

21 A. He was using foul language. He was very rude,  
22 very loud, very angry.

23 Q. Do you recall what foul language he was using?

24 A. To the best of my recollection, he used the  
25 "damn" word, he used the "F" word.

1 Q. Was Joe Brown someone, to your recollection,  
2 who shouted?

3 A. Yes.

4 Q. Okay. Was Joe Brown someone, to your  
5 recollection, who had a temper?

6 A. Yes.

7 Q. And was it based on incidents other than this  
8 telephone conversation?

9 A. Repeat that question.

10 Q. Sure. Was it your understanding and belief  
11 that Joe Brown was someone who was -- I can't recall  
12 whether I said screaming but someone who had a hot  
13 temper based on this conversation alone or on other  
14 actions as well?

15 A. I do not know his contact with other Caucasian  
16 employees, but I know that most of his conversations  
17 with me, he used some sort of foul language, he raised  
18 his voice in some sort of fashion. Or if I tried to  
19 show him -- if I try to tell him that I think, Joe, in  
20 this call, we should have done this, he would get angry  
21 as to why I was saying that, you'd better listen to me,  
22 or it was very threatening and demeaning, his tenor and  
23 tone was very threatening and demeaning. I don't know  
24 if it was consistent with other employees, but to me  
25 that was his contact.

1 mention anything about Mike Kedkad; is that correct?

2 A. No, other than the fact that I heard from Mike  
3 Kedkad that Joe Brown said he hated Indians.

4 Q. Right. And then my second question is: It  
5 says that Mr. Hoback said you should hang in there and  
6 be supportive of management. Is that an accurate  
7 statement of what Jason's response was?

8 A. Yes. His response was that at this time, when  
9 everybody is leaving, I should be more supportive of the  
10 management, I should hang in there.

11 Q. And in paragraph 16, there's a statement that  
12 says on the week of March 26, 2007, Joe Brown said in  
13 front of you: All Muslims are terrorists.

14 Is that the statement that you and I have  
15 discussed earlier?

16 A. Yes.

17 Q. There is a statement in paragraph 17 that says  
18 that Joe Brown said to Mike Kedkad: You should go back  
19 to school so you can learn to read, write and talk  
20 normal like us.

21 Were you aware of that statement while you were  
22 employed at KnowledgeStorm?

23 A. No.

24 Q. Paragraph 18 references a telephone  
25 conversation that says that plaintiffs had on April 3rd,

1 2007 with Jason. And I believe that's the telephone  
2 conversation you and I had discussed earlier that you  
3 and Mike and Jason had together; is that correct?

4 A. Yes.

5 Q. And the paragraph goes on to say:

6 "Plaintiffs asked him about the contract that  
7 he had promised them and asked him about the  
8 contracts and raises given to other employees  
9 and even the ones that were leaving."

10 So let me try to break up that second sentence  
11 with some questions. It says, "Plaintiffs asked him  
12 about the contract that Jason had promised them."

13 Is the contract the one that we have discussed  
14 where if there was a company that was going to be  
15 acquiring KnowledgeStorm, that you would have some  
16 secure employment insured by KnowledgeStorm?

17 A. Yes.

18 Q. And then it goes on to say that you guys asked  
19 him about the contracts and raise he's given to other  
20 employees and even the ones that were leaving.

21 What contracts and raises were given to other  
22 employees including the ones that were leaving?

23 A. My understanding was that there was Joe  
24 Kaniewski, who was leaving, he was being given a  
25 contract that we were talking about, where for six

1 months they wouldn't be let go. He told us that he was  
2 being given a raise. I know that Rick Neigher was  
3 leaving, who worked out of the Los Angeles home office,  
4 where he was also being given a raise because he was  
5 leaving. So they were trying to keep these two.

6 Q. So those two folks told you that they were both  
7 given raises in order to try to have them stay on. And  
8 as it relates to Joe Kaniewski, that he was offered this  
9 contract as well?

10 A. Correct.

11 Q. And then the paragraph goes on to state that  
12 you guys told him about the recent racial slurs and  
13 discrimination from Joe Brown.

14 And so my question is: What were the racial  
15 slurs and discrimination from Joe Brown that you  
16 reference in this April 3rd conversation?

17 MR. KREGER: I'm going to object; asked and  
18 answered.

19 MR. MOKOTOFF: I'm actually being a little bit  
20 more global than my previous question, because it talks  
21 about racial slurs and discrimination from Joe Brown.

22 BY MR. MOKOTOFF: (Q) So do you understand my  
23 question?

24 A. In all honesty, I don't.

25 Q. Let me back up. That sentence says, "They also

1 told him about the recent racial slurs and  
2 discrimination from Joe Brown."

3 And my question is: Can you identify for me  
4 what were the recent racial slurs and discrimination  
5 from Joe Brown that you identified or that was  
6 identified in this April 3rd conversation?

7 A. I think I have already answered the racial slur  
8 part. And for the discrimination part, I think we  
9 reiterated everything that had started from start to  
10 that point, to where Joe was uncooperative, would not  
11 answer his phone calls.

12 And I think in my case, the more specific  
13 incident that happened was on March 29th, where I really  
14 needed someone's help to get my contract processed, and  
15 Joe did not tell me where he was going to be that day.  
16 And so I think those are some of the things that I  
17 brought to Jason's attention.

18 Q. The next sentence says after that says that:

19 "Jason Hoback became very angry with them and  
20 threatened plaintiffs and said that he would  
21 fire them for creating trouble."

22 Can you tell me what you recall about anything  
23 about that sentence.

24 A. Sure. Towards the end of the conversation,  
25 we -- I'm going to use the word "we" because there were

1 both of us at that time.

2 We asked him: Jason, when can we expect to see  
3 something from you in terms of those contracts?

4 And at that point, Jason became very angry,  
5 very loud, very agitated, rude, and said: Damn you  
6 guys. I'm surprised that you guys are behaving in such  
7 a noncooperative fashion. You guys -- I can fire you  
8 both if I want to. And you are not supporting the  
9 management. And he started using the cuss words. And  
10 the next thing I know, the phone went dead.

11 Q. He hung up on you?

12 A. Yeah. My understanding is he hung up on us.  
13 And it was a lot of cussing and getting angry. And then  
14 Mike and I were just looking at each other, what  
15 happened?

16 Q. The Complaint said that he would fire you guys  
17 for creating trouble. You just said something to the  
18 effect he said: I can fire you both. Is that one in  
19 the same, in your mind?

20 A. I think it's one in the same, I can fire you  
21 both or I can fire you.

22 Q. For creating trouble. What trouble did you  
23 understand that you were creating?

24 A. I don't know what trouble we were creating.  
25 Honestly, I don't know what trouble he was referencing.



1 Q. Did he reference his frustration or concerns  
2 about you bringing in what other people were promised in  
3 terms of raises or contracts?

4 A. I think -- to my recollection or to the best of  
5 my knowledge, I think he was referring to the fact that  
6 we kept on bringing the part that Joe Brown was  
7 harassing us, we kept on bringing the part that Joe  
8 Brown was uttering these racial comments against us. I  
9 think Jason did not like the fact we were bringing it to  
10 his attention.

11 Q. The next sentence in that paragraph 18 says,  
12 plaintiff -- I'm not sure if it should be plural or  
13 singular -- that they were referred to as "sand  
14 niggers."

15 Explain to me -- first of all, were you aware  
16 of that comment, the "sand niggers" comment while you  
17 were employed at KnowledgeStorm?

18 A. No.

19 Q. And have you since become aware of that  
20 comment?

21 A. Yes.

22 Q. From whom did you learn that? Well, let me ask  
23 you: Do you know, was this a comment that was made by  
24 Joe Brown?

25 A. My assumption is, yes.

1 what I was being referred to as, I just didn't want to  
2 go further into it.

3 Q. Did Joe Niederberger at that time mention any  
4 other statements or comments that were attributed to Joe  
5 Brown as it related to you or Mr. Kedkad?

6 A. No. To me, that was the only comment that he  
7 made.

8 Q. The next paragraph of the Complaint, which is  
9 paragraph 19, states that:

10 "Defendants further demanded and plaintiffs  
11 refused" -- I'm not sure whether that is  
12 singular or plural -- "to commit fraudulent  
13 acts, including falsifying start dates and  
14 inflating proposals in an effort to defraud  
15 potential buyers."

16 My question to you first simply is: Does  
17 paragraph 19 refer or relate to anything done toward  
18 you?

19 A. I think I was a party to it, because I did  
20 receive an email where I was asked to pull the contract  
21 date for Infosys in, even though they were technically  
22 not starting until mid April. And I remember getting an  
23 email from Joe Brown asking salespeople to inflate the  
24 proposal by adding advertising even though you know your  
25 client will not be buying advertising, and we can adjust

1 it later on so that we can look good in front of our  
2 potential buyers.

3 Q. Okay. So were there two separate emails --

4 A. Yes, these were two separate emails.

5 Q. -- that you believe you received?

6 A. Yes.

7 Q. And did you have any response to those emails?

8 A. I don't recollect responding to any of those  
9 emails.

10 Q. So Joe Brown and KnowledgeStorm wouldn't have  
11 known one way or the other whether you would have  
12 accommodated those emails; is that correct?

13 A. No, they would know that I would or would not.  
14 Because if I did not pull in the contract date for  
15 Infosys, then I'm sure they're aware of the fact that I  
16 have not accommodated that email.

17 And for the other one, if I am putting in  
18 proposals -- and I was putting in a few proposals at  
19 that time -- and I am not adding advertising into that,  
20 then I think they're aware of the fact that I am not  
21 accommodating that email.

22 Q. And you didn't add advertising to your  
23 proposals?

24 A. No, I did not.

25 Q. And you didn't, with respect to Infosys, reach

1 I got, which I'm sure the rest of the people got as  
2 well, said basically the verbiage that's here without  
3 copying of this other email.

4 Q. Got you. And so -- I'm sorry. What do you  
5 think is inappropriate about this email?

6 A. I think the very fact that you're asking people  
7 to pull in your contract dates when you know that the  
8 client is not going to be starting until April -- so  
9 you're basically short charging the client their full  
10 six months or three months or whatever that is.

11 Q. So if you look at the first page of Exhibit 17,  
12 can you show me where KnowledgeStorm is short charging  
13 the customer?

14 A. I think that's inherent in the email, if you  
15 read it.

16 Q. And I'm having a difficult time understanding  
17 it. Where is it inherent in the email that you're  
18 charging a customer for something that they're not  
19 receiving?

20 A. I personally feel that this is -- my personal  
21 belief on this is that this is not fair, because when  
22 you know that you are -- the client is technically not  
23 starting until, let's say, the middle of April, then why  
24 are you pulling them -- why are you asking them to sign  
25 a contract saying that, yes, they're starting on a

1 certain day when they're really not starting on the  
2 certain date?

3 That's the problem I have with it. Why should  
4 I ask my clients to sign a document saying that I'm  
5 starting on April 1st when they're -- and I'm just  
6 making up that date. I'm not going by these dates. I'm  
7 just saying -- sign a document saying you're starting  
8 April 1st when you're really not starting until  
9 April 15? So even if you're not short changing the  
10 client, why should the client sign that?

11 Q. And you're saying you never did go to your  
12 clients to ask them to do this?

13 A. No, I did not.

14 Q. And you believe that you were terminated  
15 because you didn't?

16 A. I think I was terminated because I brought the  
17 racial comments. I think I was terminated because --  
18 also because I did not want to participate in this. But  
19 maybe that played a smaller part. The major part was I  
20 was racially targeted.

21 Q. And let's see. And inflating proposals. I  
22 think you had mentioned there was an email related or  
23 discussed marketing advertising to potential customers;  
24 is that correct?

25 A. Correct.

1 Q. Okay. Explain to me what you understood  
2 KnowledgeStorm to be doing inappropriately.

3 A. I think when you are fully aware that your  
4 client is not going to be buying advertising, and you're  
5 putting in a line item of advertising and showing  
6 \$10,000, I feel that, in my personal belief, that's  
7 inflating a proposal; because, though, you know a  
8 hundred percent that the client is not going to be  
9 buying advertising, why should I put a line item of  
10 advertising when I know they're not going to be buying  
11 advertising?

12 So the email specifically said we should put  
13 that in there because then we'll look good in terms of  
14 how many proposals -- the value of the proposals that  
15 we're generating in front of our prospect buyers.

16 Q. And do you believe that that was a reason why  
17 you were terminated? Because you didn't provide this  
18 item offer to your client prospects?

19 A. I think I'm going to repeat myself. I think I  
20 was terminated because I was racially targeted. I was  
21 terminated because I brought the racial comments up  
22 front. And I think these two items maybe played a  
23 little part in it, I think, because I was noncooperating  
24 in doing these things, but I think the major part of it  
25 was my race.

**CERTIFIED  
COPY**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

3 --0--

4  
5 JASBIR GILL, MAHMOUD KEDKAD, )  
6 Plaintiffs, )  
7 vs. ) No. C 07-04112 PVT  
8 KNOWLEDGESTORM, INC., a )  
9 Corporation, DOES 1 through 50, )  
10 Defendants. )  
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11

12

13

14 DEPOSITION OF MAHMOUD KEDKAD

15

16

17 DATE: Tuesday, January 15, 2008

18

19 TIME: 10:15 a.m.

20

21 LOCATION: Bell & Myers  
22 2055 Junction Avenue, Suite 200  
23 San Jose, CA 95131

24 REPORTED BY: Anna S. Allen  
25 Certified Shorthand Reporter  
License Number 9954

**EXHIBIT B**

**M E R R I L L L E G A L S O L U T I O N S**

1 having ever received a copy of the handbook?

2 A. I do not.

3 Q. Do you recall ever receiving a copy of the  
4 company's no-harassment policy?

5 A. At some point in time, yes.

6 Q. While you were employed at KnowledgeStorm?

7 A. Correct.

8 Q. Okay. Do you recall when you would have  
9 received a copy of the company's no-harassment policy?

10 A. After some accusations to me in some meetings,  
11 probably May --.

12 Q. Okay.

13 A. -- of 2006.

14 Q. Of 2007?

15 A. 2007.

16 Q. Do you recall reading that no-harassment policy  
17 when you would have received it in or about May of 2007?

18 A. Yes, I looked it over.

19 Q. Okay. When you started working for  
20 KnowledgeStorm in 2006, did you understand the reporting  
21 structure at KnowledgeStorm in terms of who you would be  
22 reporting to?

23 A. I have already answered that.

24 Q. Did you understand -- so let me clarify that.

25 Did you understand that you'd be reporting to Joe Brown?



1 A. Yes.

2 Q. Okay. And did you understand who Joe Brown's  
3 boss was?

4 A. Yes.

5 Q. And who was that?

6 A. Jason Hoback.

7 Q. And did you understand who Jason Hoback's boss  
8 was?

9 A. Yes.

10 Q. And who was that?

11 A. Jim Canfield.

12 Q. Were any of those three gentlemen physically  
13 located out of the South San Francisco office?

14 A. Could you rephrase it?

15 Q. Sure. Was either Joe Brown, Jason Hoback or  
16 Jim Canfield physically located out of the South San  
17 Francisco office?

18 A. All three of them are.

19 Q. They were physically located out of the South  
20 San Francisco office?

21 MR. KREGER: Do you mean to ask it that way?

22 MR. MOKOTOFF: I will try to rephrase that.

23 MR. KREGER: "Out of" sounds like not in San  
24 Francisco.

25 MR. MOKOTOFF: Thank you for that

1 clarification.

2 BY MR. MOKOTOFF: (Q) Let me rephrase my  
3 question, Mike. Do you know, was Joe Brown employed out  
4 of the Atlanta, Georgia office?

5 A. I think you're asking me a question that I  
6 don't know, because that's an arrangement that's been  
7 made.

8 Q. And so --

9 A. I can tell you what I --

10 Q. What you believe?

11 A. What I believe.

12 Q. That's all I'm asking.

13 A. They're commuting managers, so they could have  
14 the arrangement made with them to be between both.

15 Q. Your understanding is they were commuting  
16 managers?

17 A. Commuting managers, yes.

18 Q. We have previously been discussing your  
19 coworkers out of the South San Francisco office when you  
20 started working for KnowledgeStorm, and you named  
21 Jasbir, Lisa, Kevin, Katie and Rachel.

22 As you evolved in your employment at  
23 KnowledgeStorm, would you identify any of those  
24 coworkers as coworkers with whom you had a better  
25 professional relationship than others?

1 Q. You don't remember whether you did or didn't?

2 A. I don't know whether I did or didn't.

3 Q. Do you believe KnowledgeStorm took adverse  
4 action against you because you did not send Objectivity  
5 an addendum?

6 A. No.

7 MR. KREGER: Can we take a break?

8 MR. MOKOTOFF: Good time.

9 (Lunch break taken.)

10 MR. MOKOTOFF: We're back on the record after  
11 lunch.

12 BY MR. MOKOTOFF: (Q) This morning, early on  
13 in your testimony, we were discussing some of your prior  
14 employers before working for KnowledgeStorm. And one of  
15 those employers was SunGard Systems.

16 I forgot to ask: Do you recall what your  
17 compensation was when you were working for SunGard?

18 A. Eighty thousand base.

19 Q. How about Xtiva? Do you recall what your  
20 salary was?

21 A. I believe it's 85,000 base.

22 Q. Mike, when do you contend was the first time  
23 that Joe Brown made statements about your national  
24 origin or race that you found offensive?

25 A. The first time was probably few weeks after I

1 started, second or third week of December.

2 Q. Okay. And what did he say during the second or  
3 third week of December?

4 A. I overheard him say to another employee: What  
5 do you think of the camel jockey we've hired? Why don't  
6 you take the swat on him so he can start making some  
7 calls?

8 Q. This communication that he made to this other  
9 employee, who is the other employee?

10 A. Joe Niederberger.

11 Q. And was this a conversation or communication  
12 that you overheard in the South San Francisco office?

13 A. That's correct.

14 Q. Do you know the context of that conversation?  
15 In other words, were you a part of the conversation with  
16 Joe Niederberger?

17 A. No.

18 Q. Were you walking by?

19 A. Yes.

20 Q. Where, to your recollection, did this  
21 conversation take place?

22 A. In Niederberger's booth.

23 Q. And Joe Niederberger's booth or cubicle, was  
24 that nearby your cubicle?

25 A. Couple of cubicles down from me, yes.

1 Q. At KnowledgeStorm.

2 A. Joe Brown.

3 Q. Okay. Other than the comment that we have just  
4 discussed that he made, did he refer to you as a camel  
5 jockey subsequent to that occasion?

6 A. No.

7 MR. KREGER: You mean that he heard?

8 MR. MOKOTOFF: Well, I didn't ask him  
9 whether --

10 BY MR. MOKOTOFF: (Q) That you heard, that  
11 you're aware of.

12 A. Yes.

13 Q. Have you had an opportunity to discuss with Joe  
14 Niederberger this comment, since you first overheard it?

15 A. No.

16 Q. Did you report this comment to anyone?

17 A. Jason Hoback.

18 Q. When did you report that to Jason?

19 A. I reported this to Jason when we went to visit  
20 a client in person, after the visit to the client.

21 Q. Do you recall when that was?

22 A. End of January.

23 Q. Do you recall the client that you were  
24 visiting?

25 A. PostPath.

1 Q. PostPath?

2 A. Um-hum.

3 Q. And you said you told Jason of this comment  
4 after you visited the client?

5 A. That's correct.

6 Q. Were you guys driving in the car together when  
7 you told him?

8 A. Actually, I asked -- when we finished the  
9 visit, I asked if I can speak to him privately.

10 Q. And where did you speak to him privately?

11 A. We spoke in his car.

12 Q. And in his car is when you told him about this  
13 comment?

14 A. Yes.

15 Q. Did you tell him about any -- were there any  
16 other comments at that time you told him about?

17 A. Yes.

18 Q. What else did you tell him about?

19 A. I told him about Joe Brown making fun of my --  
20 the way I dress. I told him about the nonsupportive  
21 attitude and nonresponsiveness of Joe Brown that is  
22 creating an unfriendly and hostile environment for me to  
23 do my job. I also reminded him of his words to me that  
24 I would be handling accounts and I'd be handling leads  
25 and when would that happen.

1 Q. When you told Jason about the camel jockey  
2 comment and the making fun of the way that you dress, do  
3 you recall what Jason's response was?

4 A. He played it down.

5 Q. Specifically, what do you recall? How did he  
6 play it down?

7 A. Don't exactly remember the words, but something  
8 like, really, or oh, no.

9 Q. Okay. When you reminded Jason of his promise  
10 concerning handing you accounts and providing leads, do  
11 you recall what his response was?

12 A. His response is, bear with us, we'll be giving  
13 you accounts. Joe is an inexperienced manager and we're  
14 looking -- actively looking for a new manager and things  
15 will change. A few other things I can't recall from my  
16 conversation.

17 Q. The making fun of the way you dress comment  
18 that Joe Brown made, when did that occur?

19 A. That occurred on at least a couple of  
20 occasions.

21 Q. Okay. Can you tell me the first time that that  
22 occurred.

23 A. The first time, I was coming into work and he  
24 was at his office.

25 Q. And approximately when during your employment,

1 in other words, date-wise, did this occur?

2 A. Probably middle of January.

3 Q. And you were coming into work and you said you  
4 passed by Joe Brown's office?

5 A. Yes.

6 Q. And what did he say?

7 A. He got up and we greeted each other. And then  
8 he looked at me and he made that derogatory comment.

9 Q. What did he say?

10 A. He said: Why are you dressed like this? You  
11 think you're in the Middle East?

12 Q. Do you recall what you were wearing?

13 A. Probably a long shirt and pants, a heavy shirt.  
14 I didn't have a jacket on that day.

15 Q. Was there anything that you were wearing that  
16 would have been distinctive to the Middle East?

17 A. No.

18 Q. Okay.

19 A. Well, the second occasion might be.

20 Q. So the first occasion was the middle of  
21 January, you're coming into work, passing by his office,  
22 and you were wearing a long shirt and pants. And he  
23 said, Why are you dressed like this? You think you're  
24 in the Middle East; is that correct?

25 A. Yes.



1 Q. Did you say anything in response to that?

2 A. No.

3 Q. What was the second time?

4 A. Second time, probably a day or two after that.

5 Q. Okay. What did he say then?

6 A. I was wearing a jacket, a light jacket that's  
7 long, maybe comes down to here (indicating).

8 Q. Okay.

9 A. And then, actually, he was touching it like  
10 this (indicating), saying, What is this funny weird  
11 clothes you're wearing?

12 Q. Was there anything distinctive about that  
13 jacket, to your opinion, that was distinctive in terms  
14 of it being Middle Eastern?

15 A. No.

16 Q. Did you say anything in response to Joe's  
17 comment?

18 A. Yes, I did.

19 Q. What did you say?

20 A. I told him that this is a style here.

21 Q. This is the style here, you said?

22 A. Um-hum.

23 Q. Did he have any response to that?

24 A. No.

25 Q. Do you recall whether anyone would have heard

1 the first comment, the one that took place in the middle  
2 of January?

3 A. Yes.

4 Q. Who would have overheard that?

5 A. Jasbir Gill.

6 Q. And how did you come to understand that Jasbir  
7 Gill overheard that comment?

8 A. She was in the same vicinity.

9 Q. Did she tell you she heard the comment?

10 A. Yes.

11 Q. And how about the comment a few days after that  
12 about your funny, weird clothes? Did anyone overhear  
13 that comment, to your knowledge?

14 A. To my knowledge, I don't know. I don't know.

15 Q. Were these all comments that you reported to  
16 Joe [sic] toward the end of January?

17 A. Joe?

18 Q. Jason.

19 A. Yes.

20 Q. When do you contend was the next time that Joe  
21 Brown made statements about your national origin or race  
22 that you found offensive?

23 A. Probably third week of February.

24 Q. What statement did he make?

25 A. He made a statement about Indian people.

1 A. Can you say that again?

2 Q. I'm trying to figure out, you said there was a  
3 discussion concerning Jasbir's whereabouts, but you also  
4 testified that he knew where she was.

5 A. Um-hum.

6 Q. So what was the discussion concerning her  
7 whereabouts?

8 A. He asked me if I know when Jasbir is coming  
9 back --

10 Q. Okay. Got you.

11 A. -- from India.

12 Q. Did you know when she was coming back?

13 A. I had no idea.

14 Q. And what did he say, if anything, in response  
15 to your statement that you didn't know when she was  
16 coming back?

17 A. He said, Good, maybe she's not coming back.  
18 That will be one less Indian.

19 Q. Did you say anything in response?

20 A. No.

21 Q. By that time, by the third week in February,  
22 had you and Jasbir started working on the company that I  
23 discussed with Jasbir yesterday in the deposition? The  
24 company's name is escaping me now. Do you know what I'm  
25 referring to?

1 Q. And you wouldn't have reported these comments  
2 to him at that time because they occurred the third week  
3 of February; correct?

4 A. Correct, yes.

5 Q. So I was specifically asking you when you would  
6 have reported the third week of February comments to  
7 Jason Hoback.

8 A. That would be sometime in March.

9 Q. Okay. Do you recall whether it was in the  
10 early part of March?

11 A. Later part of March.

12 Q. Why did you wait approximately one month before  
13 reporting this to Jason?

14 A. I do not feel comfortable then. I kind of wait  
15 myself out and hesitate, but also wait for the right  
16 opportunity to do it.

17 Q. When you reported these comments to Jason  
18 toward the end of March, where were you when you  
19 reported them?

20 A. I was working from home.

21 Q. And so this report would have been over the  
22 telephone?

23 A. Yes.

24 Q. And you had previously said you were waiting  
25 for -- I don't know. I'm not going to -- I'm trying not

1 A. I told him that I was not -- that I was really  
2 hurt and I was not invited to a party. And I told him  
3 about the comment that he made, that I might be scoping  
4 for terrorist targets.

5 Q. Any others at that time that you would have  
6 told Jason?

7 A. I discussed a whole bunch of other issues. I'm  
8 not sure exactly what issues you want me to --

9 Q. No. I'm sorry. I was specifically referring  
10 to slurs or other comments about your race or national  
11 origin or other people's races or national origin.

12 A. Yes, there's other ones.

13 Q. Before I get into those, the February 21st  
14 party and the scoping for terrorist target comments,  
15 when you were telling Jason this on the telephone, do  
16 you recall what his response was to your letting him  
17 know about these comments?

18 A. Not very positive. He was very angry.

19 Q. Do you recall what he said?

20 A. He started talking about how terrible that San  
21 Francisco office is getting out of hand and start  
22 diverting the issue into an office problem than my own  
23 personal complaint.

24 Q. Did you have any response to Jason's response?

25 A. It was just going back conversations where I

1 February 21st?

2 A. Yes.

3 Q. What time?

4 A. I don't exactly remember. I'm usually -- I  
5 have different times. Sometimes I come in very early.  
6 And if I have things to do, sometimes I come in not  
7 later than 9 o'clock.

8 Q. Do you recall whether you were in not later  
9 than 9 o'clock on February 21st?

10 A. Yes.

11 Q. Yes, you were?

12 A. Yes I were -- I was.

13 Q. The scoping for terrorist targets comments, how  
14 did you learn about this comment?

15 A. In the same context of the conversation that  
16 when they told me why I was not invited to the party.

17 Q. Okay. Specifically, who told you -- well, let  
18 me ask you: Did someone tell you that Joe Brown said  
19 that you were not invited because you'd be scoping out  
20 terrorist targets?

21 A. Yes.

22 Q. Who said that?

23 A. Lisa McGuire.

24 Q. Okay. And was it in the context of her  
25 discussion with you concerning why you weren't at the

1 party the previous day?

2 A. It was a comment after I said I was not  
3 invited.

4 Q. Do you recall exactly what she told you in  
5 response to that?

6 A. Yes. She looked at the girls and said, oh,  
7 that's why Joe didn't invite you, because he thought  
8 you'd be scoping for terrorist targets.

9 Q. She looked at the girls, being Katie and  
10 Rachel?

11 A. Yes.

12 Q. Did either Katie or Rachel make any comments  
13 when Lisa said that?

14 A. No.

15 Q. Do you know whether or not Katie or Rachel  
16 would have heard that comment?

17 A. They were in the vicinity, but I cannot confirm  
18 if they heard it or not. But they were right there,  
19 standing next to each other.

20 Q. And when Lisa told you or made this comment,  
21 was this the morning after the party, so the morning of  
22 February 22nd?

23 A. Yes.

24 Q. And when she told you about this comment, where  
25 were you?

1 Q. And what statement did he make?

2 A. Well, we walked outside and I looked at him and  
3 I asked the question of, What do you think of the call?

4 And he hesitated for a little bit, and he  
5 looked at me and said, You know, I think you should go  
6 back to school, learn some English, read and write so  
7 you can speak normal like us. You'll really be  
8 successful. You need it.

9 Q. I'm sorry. You said, So that you can be speak  
10 like us?

11 A. Yes, you can speak normal like us.

12 Q. And did you make any -- or provide any response  
13 to that?

14 A. Yes, I did.

15 Q. What did you say?

16 A. I said, Why do you think that?

17 Q. And what did he say?

18 A. He said Jason told him that I make too many  
19 mistakes in my proposals.

20 Q. Did you say anything in response to that?

21 A. Yes.

22 Q. Do you recall what that was?

23 A. Yes. I told him I made one mistake in a  
24 company's name, one line in a company's name, and Jason  
25 pointed it out to me and it was corrected.



25

**EXHIBIT C**

1 Q. Do you know what his title or position was with  
2 the company?

3 A. I do not.

4 Q. Did he, to your knowledge, did Mr. Brown, was  
5 he in this same capacity, this interim capacity that  
6 you've described, during the entire time that you were  
7 employed by Knowledgestorm?

8 A. That is my understanding.

9 Q. Meaning, for example, did Mr. Brown change in  
10 any other capacity during your employment there?

11 A. No.

12 Q. While you were employed by Knowledgestorm, are  
13 you aware at all what Mr. Brown's title that he had as  
14 an employee?

15 A. I believe it might have been a regional sales  
16 manager or district sales manager.

17 Q. Does western region sales manager ring a bell?

18 A. It could well have been that.

19 Q. Was Mr. Brown your direct report?

20 A. That is correct. I reported to him.

21 Q. Was there anyone else who you reported to  
22 directly during your employment at Knowledgestorm?

23 A. No. There were other people I interacted with  
24 senior to him, but he was my direct supervisor.

25 Q. Who were the other people that you interacted

1 with?

2 A. Jason Hoback, Jim Canfield. Jason Hoback was a  
3 director of sales for the company. Jim Canfield was a  
4 vice president of sales.

5 Q. Was Mr. Hoback and Mr. Canfield also located  
6 out of Alpharetta, Georgia?

7 A. That's correct.

8 Q. Going back to, one of the responsibilities that  
9 you say that you had as a sales executive in the South  
10 San Francisco office was office management. Is that  
11 accurate?

12 A. Yes, that's accurate.

13 Q. Is that -- who, I guess, empowered you with  
14 those duties?

15 A. Probably Joseph Brown.

16 Q. What do you recall Mr. Brown saying to you with  
17 regard to implementing those duties?

18 A. Because he wouldn't be in the office. He would  
19 be traveling from Alpharetta periodically to the office.  
20 That he needed someone to manage pretty much any local  
21 issues that needed to be handled on a local basis;  
22 whether it was ordering supplies, whether it was making  
23 sure there was enough coffee.

24 Whether it was a space issue, a  
25 telecommunications issue; there was a letdown in the

1 Q. I understand that. But my question is --

2 A. It's pure speculation on my part. I have no  
3 basis in fact for coming to any conclusion. They  
4 rendered their reasons for terminating me. They're  
5 their reasons.

6 Q. And you would only be speculating if there were  
7 alternate reasons?

8 A. I would be speculating, that's correct.

9 Q. Now, are you aware of what the general  
10 allegations are in this lawsuit?

11 A. I believe I do, because I actually initiated  
12 communication to the company relative to it.

13 Q. Relative to these allegations?

14 A. To these allegations, yes.

15 Q. How did you initiate the information?

16 A. Direct conversation with my superior.

17 Q. And --

18 A. Or actually, not my superior. My supervisor's  
19 superior. I apologize. That would be Jason Hoback.

20 Q. So you spoke with Jason Hoback?

21 A. That's correct.

22 Q. And your understanding, that's the first point  
23 in time in which Knowledgestorm learned of these general  
24 allegations in this complaint?

25 A. That's correct.

1 with it.

2 Q. What else did you tell him?

3 A. I couldn't give you a verbatim quote, but that  
4 was the genesis that I told him. I told him there were  
5 issues I didn't know how to proceed on; I needed some  
6 guidance.

7 Q. Did you tell Mr. Hoback what the issues were?

8 A. I told him they were related to racial issues  
9 so he understood the severity of it.

10 Q. What else do you recall telling Mr. Hoback in  
11 this conversation?

12 A. That's pretty much as good a summary as I could  
13 give you.

14 Q. What were the racial issues that you were  
15 attempting to reference?

16 A. They were phrases that I was a direct party to  
17 in conversation with my direct supervisor.

18 They were extremely uncomfortable. They were  
19 racial in nature. They were just prejudicial. They're  
20 not something you would say to somebody's face.

21 Q. Phrases by whom?

22 A. Joe Brown.

23 Q. Were any racial phrases made by any other  
24 employees of Knowledgestorm, that you're aware of?

25 A. Well, I -- there were jokes made. You know,

1 with anyone relative to these issues?

2 A. Honestly, I don't believe that after that time  
3 frame -- I felt I did what I was supposed to do. I had  
4 passed it on, and it wasn't my job responsibility. I  
5 did it off of my own accord and then went back to work.

6 Q. Let me just ask my question again. Maybe I'll  
7 make it clearer this time.

8 Prior to your termination of employment, did  
9 you have any other conversations with Knowledgestorm  
10 management related to these racial issues?

11 A. I believe, and I can't tell you if it was pre-  
12 or immediately post, but at the time of my termination I  
13 had sent a letter, an e-mail perhaps, maybe not a  
14 letter, to the president of the company, stipulating  
15 that issues had gotten out of control relative to both  
16 racial and some inappropriate behavior from the remote  
17 staff that was coming in.

18 It may have been -- it was right around my  
19 termination. I'm trying to recall whether I sent it as  
20 an employee or post, but it was in that time frame.

21 Q. Okay. And just so we're clear, is the sending  
22 of this letter or e-mail to the president of  
23 Knowledgestorm, was that the second act that you  
24 undertook to communicate any type of racially related  
25 issues in the Knowledgestorm office in South San

1 Hoback about these racially related issues, as opposed  
2 to any other person in management of the company?

3 A. My recollection of my rationale at the time was  
4 I liked Joe Brown as an individual.

5 Different people say different things and do  
6 different things. I didn't want to escalate it as an HR  
7 issue, because I thought it could be handled internal to  
8 the group. I thought that was the appropriate course of  
9 action.

10 Q. So it's fair to say you did not report this  
11 issue to -- do you know Mike Evers?

12 A. Sure.

13 Q. What was Mike Evers' position with the company?

14 A. Might have been head of administration. He was  
15 a senior officer with the company.

16 Q. So it's fair to say, during your employment  
17 with Knowledgestorm, you did not communicate this issue  
18 to him --

19 A. No.

20 Q. -- correct?

21 A. No.

22 Q. You mentioned that you either overheard or  
23 witnessed racially related either comments or statements  
24 that were made by Joe Brown. Is that correct?

25 A. I was a direct recipient of the conversation.

1 I didn't overhear.

2 Q. So you witnessed the conversation?

3 A. I was part of the conversation.

4 Q. Okay. When did this conversation take place?

5 A. Probably started sometime in mid-December 2006;  
6 continued on sporadically through the month of January,  
7 maybe into the beginning of February.

8 Q. Okay. Just so we're on the same page, when I  
9 think of a conversation, it's an isolated conversation.

10 A. It's not. May I give you an example?

11 Q. Sure.

12 A. Okay. I would be in the office at 6:15 in the  
13 morning. Joe Brown would come in shortly thereafter.  
14 We exchange pleasantries, and he would then make a  
15 disparaging comment, with no one else in the office.  
16 Basically say, and I don't even like the term, but he  
17 was fond of the term -- he was fond of the term "sand  
18 niggers."

19 He was fond of the term "camel jockeys." And  
20 he would say, "How are the sand niggers doing?" "What  
21 can we do to get the camel jockeys working harder?" He  
22 was very disparaging. It wasn't a conversation, we  
23 weren't having a conversation, but I was the sole  
24 attendee in the office. I was the target of the  
25 comments.



1           It was uncomfortable, and my response generally  
2    was, I'm just doing my thing. People come into the  
3    office. I'm not punching clocks. My job is sales.

4           They come into the office; everybody is  
5    working, that kind of thing. And it would move on to  
6    SEC, football, or some less toxic conversation.

7           Q. Other than the term "sand nigger" or "sand  
8    niggers" or "camel jockey," did you witness Mr. Brown  
9    using any other types of terms that you thought were  
10   racially related?

11          A. No, not that I can recall. There was, the rest  
12   of the office was Caucasian. There wasn't another  
13   person of different ethnicity in the company; at least  
14   in the South San Francisco office.

15          Q. Okay. But your testimony still stands that you  
16   do not recall any --

17          A. Absolutely not.

18          Q. -- you do not recall any other types of  
19   racially related comments, other than "sand nigger" or  
20   "camel jockey." Correct?

21          A. That's correct.

22          Q. How many times during your employment with  
23   Knowledgestorm do you recall Mr. Brown using the term  
24   "sand nigger"?

25          A. At least a half a dozen. It was, I'm not going

1 to say it was part of his vocabulary, but it clearly was  
2 a term he was comfortable using in my presence.  
3 Thinking that, A, it didn't offend me, or that it was  
4 somehow acceptable.

5 Q. You say, "At least half a dozen." Meaning six?

6 A. Yes.

7 Q. And less than how many?

8 A. Twenty.

9 Q. Is that your best estimate, 6 to 20?

10 A. That is my best estimate.

11 Q. And how many times during your employment do  
12 you recall Mr. Brown use the term "camel jockey"?

13 A. An equal number; between 6 and 20.

14 Q. Now, during each of the times that you heard  
15 Mr. Brown use the term "sand nigger," was there anybody  
16 else present, other than yourself?

17 A. No.

18 Q. During each of the times that you overheard  
19 Mr. Brown using the word "camel jockey," was there  
20 anybody else present?

21 A. No.

22 Q. So during each of the incidences when you heard  
23 Mr. Brown use the word "sand nigger," to your knowledge,  
24 you were the only person who heard him use that term?

25 A. That's correct.

1 Q. Right.

2 A. No.

3 Q. Now, what's your understanding of who Mr. Brown  
4 was referring to in using the word "sand nigger"?

5 A. There were, the office was completely Caucasian  
6 with the exception of Jasbir Gill and Mike Kedkad, who,  
7 I'm not really sure what their ethnicity is, but that  
8 was my inference from the comments.

9 Q. And for the record, do you know what Ms. Gill's  
10 race is?

11 A. No.

12 Q. Do you know what her nationality is?

13 A. No.

14 Q. Do you know what Mr. Kedkad's race is?

15 A. No.

16 Q. Do you know what Mr. Kedkad's nationality is?

17 A. No.

18 Q. During the times when you heard Mr. Brown use  
19 the term "sand nigger," did he ever refer to Ms. Gill as  
20 being a sand nigger?

21 A. He referred to them collectively as both. It  
22 was directed at both of them.

23 Q. My, I guess my question is, for example, did  
24 Mr. Brown ever use the word "sand nigger" or "sand  
25 niggers" and use the names Jasbir Gill and/or Mike

1 Kedkad in the same statement?

2 A. Oh, yes. Because it was always in alignment of  
3 what are these individuals, what are these individuals  
4 doing? Are they showing up for work? Are they coming  
5 into the office?

6 So he was clearly directing his inquiry toward  
7 me towards some kind of information, because I was in  
8 the office early. I would know when people showed up,  
9 type of thing. And that was his inquiry.

10 He wasn't referring to Katie Campbell or Kevin  
11 Cummings or Lisa McGuire, who were all Caucasians. He  
12 was only referring to them.

13 Q. But my specific question is, in any of these  
14 incidences did Mr. Brown use the names Jasbir Gill or  
15 Mike Kedkad, using these racially related terms?

16 A. No. He used the racial terms in place of their  
17 names.

18 Q. I believe you testified -- or I'll clarify for  
19 the record.

20 When was the first time that you recall  
21 Mr. Brown using the term "sand nigger" or "sand  
22 niggers"?

23 A. I believe it was prior to Christmas in 2006,  
24 sometime in mid-December.

25 Q. When was the last time you recall hearing